IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12701 of 2005

Between:

Sharp Detectives Pvt Ltd Having its Office at G3, C Block, Kubera Towers, Trimulgherry, Secunderabad ,Rep by its M.D. Capt. D.K.Giri.

..... PETITIONER

AND

1 A.P.State Road Transport Corporation, Rep by its Managing Director, Musheerabad, Hyderabad.
2 The Exxecutive Director, APSRTC, Hyd & Kr Zone, MGBS,

Hyderabad -12.
3 The Deputy Chief Accounts Officer, APSRTC, Hyderabad Zone , Upppal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order to issue an appropriate writ, order or direction declaring the action of the respondents in imposing a condition for forfeiture of EMD amounts in the event the EMD is paid by any other mode other than Demand Draft, as arbitrary, illegal, and contrary to the principles of natural justice, amounting to unjust enrichment, apart from the being discriminatory and unilateral and consequently direct the respondents to refund the EMD amount of Rs.1,00,000/- to the petitioner with interest.

Counsel for the Petitioner: MR.KISHORE RAI

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following :

O R D E R:

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This Writ Petition is filed by the petitioner seeking writ of mandamus declaring the action of the respondents in imposing a condition for forfeiture of the Earnest Money Deposit amounts in the event it is paid by any other mode other than Demand Draft, as arbitrary, illegal, contrary to the principles of natural justice, amounting to unjust enrichment, apart from being discriminatory and unilateral; and consequently direct the respondents to refund the E.M.D. amount of Rs.1,00,000/- to the petitioner with interest.

2. According to the petitioner, the respondent-Corporation issued a tender notification calling for the tenders for providing security guards. As per the conditions, one has to pay earnest money deposit in the form of Demand Draft, in favour of the Deputy Chief Accounts Officer, Hyderabad Zone, Andhra Pradesh State Road Transport Corporation. One of the clauses contains in the notification is that if the E.M.D. paid is less than what is stipulated or paid through other means i.e., in any manner other than the stipulated in the notification, the tender will be rejected, besides forfeiting the E.M.D. The petitioner is attacking the last part of that clause, where it provides for forfeiture of the earnest money deposit.

3. Heard both sides and considered the material on record.

4. If the tender is not submitted in accordance with the terms of the tender notification, the authorities are entitled to reject the tender, but they have no right to forfeit the earnest money deposit made by the parties. The said clause imposed by the Corporation is illegal and unsustainable.

5. Therefore, the Writ Petition is disposed of directing the respondent-Corporation to refund the earnest money deposit amount forthwith to the petitioner, within two weeks from the date of receipt of a copy of this order. If the Corporation fails to refund the said earnest money deposit amount, as directed, the petitioner is entitled for interest at the rate of 12% per annum. No costs.

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S. Ananda Reddy, J.

Dt. 24..06..2005

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To

1 The Managing Director, A.P.State Road Transport Corporation, Musheerabad, Hyderabad.
2 The Exxecutive Director, APSRTC, Hyd & Kr Zone, MGBS, Hyderabad -12.
3 The Deputy Chief Accounts Officer, APSRTC, Hyderabad Zone , Upppal, Hyderabad.

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